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PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: GUNNAR-MARCEL KLEIN
Serial No.: 09/982,527 Group Art Unit: 1723
Filed: OCTOBER 19, 2001 Examiner: Matthew Savage
Title: MULTILAYER FILTER ELEMENT

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REPLY TO OFFICE ACTION

Commissioner for Patents
Washington, D.C. 20231

Sir:

This reply is accompanied by a Petition under 37 C.F.R. §1.136(a) for a one-month extension of time and by a check in the amount of \$110.00 in payment of the required extension fee.

Responsive to the Office Action mailed November 12, 2002 in the above-captioned application, applicants hereby provisionally elect the claims of Group I, namely claims 1-14, for examination in the instant application in the event the restriction requirement is not withdrawn. This election is made provisionally and with traverse.

Further, responsive to the requirement for election of species, applicants hereby elect the species in which the layers of filter media are joined by surface pressure during folding. Claims 1-12 are deemed to read on the elected species.

The requirement for restriction is traversed because the grounds alleged to justify restriction are erroneous. The Office Action attempts to justify restriction by asserting that the claimed apparatus could be used in a materially different process, and in addition, that the claimed method could be carried out by a materially different apparatus. These allegations are believed erroneous because they fail to give due consideration to the features recited in the apparatus and method claims. In a proper restriction requirement, reference to

the apparatus must always refer to the apparatus **as claimed**. Similarly, the process must also be considered **as claimed**.

In claim 1, the various structural features of the claim are defined with reference to a direction of flow through the filter. In postulating an alternate use for the filter, the Office Action posits a proposed use in which the flow through the filter is other than as defined in the claim. Thus, the posited alternative use improperly fails to take into account the features of the filter **as claimed**.

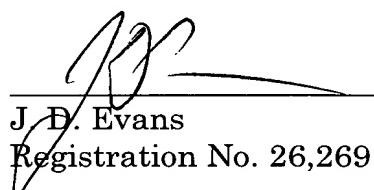
Similarly, the claimed method requires the use of a filter as claimed in filter claim 1. In an attempt to justify restriction the Office Action posits a proposed filtering method which involves a filter in which the layers are not physically joined to one another. Claim 1, however, does not require the filter layers to be physically joined to one another. Thus, the proposed alternate use does not involve a planar filter outside the scope of filter claim 1. For these reasons, the attempted restriction is manifestly improper, and reconsideration and withdrawal thereof are respectfully requested.

If there are any questions regarding this reply or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #178/50504).

Respectfully submitted,

January 10, 2003


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